



**US Army Corps  
of Engineers**

Omaha District

---

## **PUBLIC NOTICE**

**Application No: 2003-90-010**

**Applicant: Flathead Properties, LLC**

**Waterway: Flathead Lake and Adjacent Wetlands**

**Issue Date: May 30, 2003**

**Expiration Date: June 20, 2003**

**21 DAY NOTICE**

---

**Helena Regulatory Office**

**10 West 15<sup>th</sup> Street, Suite 2200**

**Helena, Montana 59626**

---

**JOINT PUBLIC NOTICE  
FOR PERMIT APPLICATION SUBMITTED TO  
U.S. ARMY CORPS OF ENGINEERS  
AND  
MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY**

The application of Flathead Properties, LLC, for approval of plans and issuance of a permit under authority of the Secretary of the Army is being considered by the District Engineer, U.S. Army Corps of Engineers, Omaha, Nebraska. **The project described herein is not being proposed by the Corps, but by the applicant; the Corps will evaluate the proposed work to determine if it is permissible under current laws and regulations.**

**Description of Proposed Project:** The applicant requests permission to place fill material in 2.8 acres of wetlands adjacent to Flathead Lake and 1.5 acres within the ordinary high water mark (2893 feet msl) of the lake. The total fill area will be 4.3 acres within aquatic areas subject to Corps jurisdiction. Fill is required to make the area buildable. Drawings showing the location and extent of the project are attached to this notice.

**Location:** The proposed activity is located in the NW1/4 of Section 35, Township 27 North, Range 20 West, Flathead County, Montana, near the town of Big Fork.

**Purpose:** The purpose of the proposed project is to develop a nine-lot subdivision and associated roads, utilities, and elevated walkways, with views and frontage on Flathead Lake.

**Mitigation:** The applicant proposes to compensate for the lost 2.8 acres of wetlands by creating 5.3 acres of palustrine emergent wetland with .3 acre of open water component. The location of the mitigation area is approximately 2.6 miles northwest of the subdivision, in the NE1/4, SW1/4 of Section 21, Township 27 North, Range 20 West, Flathead County, Montana, and adjoins the Waterfowl Production Area managed by the US Fish and Wildlife Service. The mitigation area will be protected by a perpetual conservation easement.

**Additional Information:** The entire wetland area on the property is approximately 12.3 acres. The wetland area that will not be filled will be placed under a conservation easement, which will prohibit filling and waste dumping.

The subdivision will be served by Bigfork Water and Sewer District.

Current zoning rules would allow a maximum of 12 lots. This would incur a loss of 3.7 acres of wetlands and 1.7 acres of fill below the ordinary high water mark of the lake. Total impacts with the 12 lot option

would be 5.4 acres within aquatic areas subject to Corps jurisdiction. In order to minimize impacts to wetlands, the applicant has proposed the 9-lot alternative.

The fill material will come from the excavation at the mitigation area. The soil survey of the Upper Flathead Valley classifies the soils as Somers silt at both the fill and mitigation areas.

The application package including the wetland delineation report, and mitigation plan can be viewed in their entirety by calling the Helena Regulatory Office at (406) 441-1375 at least 24 hours in advance, and making an appointment.

**401 Water Quality Certification:** The Montana Department of Environmental Quality, 1520 East 6th Avenue, PO Box 200901, Helena, Montana 59620-0901, will review the proposed project with the intent to certify in accordance with the provisions of Section 401 of the Clean Water Act. The certification, if issued, will express the State's opinion that the operations undertaken by the applicant will not result in a violation of applicable water quality standards. The Montana Department of Environmental Quality hereby incorporates this public notice as its own public notice and procedures by reference thereto.

**Cultural Resources:** The Corps of Engineers, Omaha District will comply with the National Historic Preservation Act of 1966, as amended. We have checked the National Register of Historic Places and its current supplements, and there are two known National Register sites in the vicinity. The Kearney Rapids Bridge and the Kootenai Lodge Historic District are both in the vicinity of the project. A cultural resources survey was conducted in December 2002, which revealed minimal cultural materials. We will evaluate input by the State Historic Preservation Office and the public in response to this public notice, and we may conduct or require a reconnaissance survey of the permit area to check for unknown historic or prehistoric properties, if warranted.

**Threatened / Endangered Species:** This project is in the known range of the threatened **bald eagle** (*Haliaeetus leucocephalus*), **bull trout** (*Salvelinus confluentus*), and the candidate **yellow-billed cuckoo** (*Coccyzus americanus*). In compliance with the Endangered Species Act, a preliminary "may-affect" determination has been made. Coordination with the U.S. Fish and Wildlife Service and other interested agencies will be completed to determine the effects on the listed species and their critical habitat\*. (Note\* Flathead Lake has been proposed as critical bull trout habitat.)

**Evaluation Factors:** The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. In addition, the evaluation of the impact of work on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act (40 C.F.R.; Part 230).

**Comments:** The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the

National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. All public notice comments will be considered public information and will be subject to review by the applicant.

Any person may request, in writing and within the comment period specified in this notice, that a public hearing be held for the purpose of gathering additional information. Requests for public hearings must be identified as such and shall state specifically the reasons for holding a public hearing and what additional information would be obtained. The request must be submitted to the U.S. Army Corps of Engineers, 10 West 15th Street, Suite 2200, Helena, Montana 59626. If it is decided that additional information is required and that a public hearing should be held, interested parties will be notified of the date, time and location.

Any interested party (particularly officials of any town, city, county, state, or Federal agency; Indian tribe; or local association whose interests may be affected by the work) is invited to submit to this office written facts, arguments, or objections on or before the expiration date listed on the front of this notice. Any agency or individual having an objection to the work should specifically identify it as an objection with clear and specific reasons. Comments, both favorable and unfavorable, will be accepted, made a part of the record and will receive full consideration in subsequent actions on this application. All replies to the public notice should be addressed to the **U.S. Army Corps of Engineers, 10 West 15th Street, Suite 2200, Helena, Montana 59626. Please reference the Application Number found on the first page of this notice in any correspondence.** Jean Ramer (project manager), telephone number (406) 441-1375, may be contacted for additional information. You may also fax your comments to (406) 441-1380, or email to: **Jean.L.Ramer@usace.army.mil**

Comments postmarked after the expiration date of this public notice (or received after the closing date if sent by fax or email) will not be considered.

**Statutory Authorities:** A permit, if issued, will be under the provisions of Section 404 of the Clean Water Act.